IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1396 of 2005

Between:

Md. Shamshu, S/o. Latheef,
Suryapet, Nalgonda District.

..... PETITIONER

AND

The Depot Manager, APSRTC, Sathupally, Khammam district.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ, Order or directions, more in the nature of Writ of Mandamus, declaring the Office Order dt.3.8.1996 passed by respondent herein as illegal and arbitrary and set aside the same with all consequential benefits including arrears of pay and pass such other order or orders.

Counsel for the Petitioner :Mr.P.GOVINDA RAJULU

Counsel for the Respondent : SMT.P.RAJANI REDDY

The Court at admission stage made the following :

ORDER:

The petitioner is working as a Driver in the respondent-Corporation. He was issued a charge memo on 17-07-1996 for negligent driving and after receiving the

explanation of the petitioner, the final orders were passed on 03-08-1996 by the respondent, imposing the penalty of deferment of annual increments for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is deferment of annual increments for a period of two years with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Challenging the proceedings dated 03-08-1996, the petitioner carried the matter in appeal before the Chief Traffic Manager, Khammam, but the same was rejected, by confirming the respondent's order. Aggrieved by the same, the present writ petition has been filed.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order can not be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 8 years. There are latches on his part in asserting his right regarding this issue. Having regard to the facts and circumstances of the case, though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh Gill** (1 supra), I deem it appropriate to consider that the punishment of deferment of one increment for a period of two years with cumulative effect, can be reduced with slight modification. Therefore, the order of punishment is modified as deferment of one increment for a period of two years without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of two annual increments without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. In the circumstances, there shall be no order as to costs.

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K.C.BHANU, J.

Dt: 02-02-2005.

Rns

To

1. The Depot Manager, APSRTC, Sathupally, Khammam district.

2. Two CD copies.